



**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**V.**

**ERIC ROBERT RUDOLPH,**

**Defendant.**

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**FILED UNDER SEAL**

**Case No. CR-00-S-422-S**

**DEFENDANT'S AMENDED & SUPPLEMENTAL RESPONSE  
TO GOVERNMENT'S REPLY  
RE MOTION TO QUASH SUPBOENAS ISSUED TO THE BATF**

Following the hearing on May 13, 2004, before the Magistrate Judge on the government's Motion to Quash Supboenas issued to the BATF, Mr. Rudolph files this amended and supplemental response to make clear that in argument at the hearing, in distinguishing the case of *United States v. Blizzard*, 674 F.2d 1382 (11<sup>th</sup> Cir. 1982) from the present situation, he is not and does not waive any constitutional problems with and objections to the "Touhy regulations." In a capital prosecution by the United States, to permit or require the prosecutors seeking the death of the defendant to also be the gatekeepers of court-approved subpoenaed documents does in fact violate the Eighth Amendment of the Constitution of the United States. As indicated in defendant's second reply, there are constitutional problems with denying an ex parte procedure.

Dated: May 14, 2004

Respectfully Submitted,

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Emory Anthony  
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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been served upon the following by mailing the same by facsimile transmission on this 14<sup>th</sup> day of May, 2004 to:

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Bill Bowen